

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMIE FREY,

Plaintiff,

vs.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC. et al.,

Defendants.

2:11-cv-01673-RCJ-RJJ

ORDER

Plaintiff Jamie Frey gave lender American Brokers Conduit a promissory note for \$260,000 to purchase real property at 3132 Clamdigger Ln., Las Vegas, NV 89117 (the “Property”). (*See* Deed of Trust (“DOT”) 1–2, Sept. 13, 2005, ECF No. 1-1, at 14). First American Title Co. of Nevada (“First American”) was the trustee, and Mortgage Electronic Registration Systems, Inc. (“MERS”) was the lender’s “nominee.” (*See id.* 2). MERS substituted Cal-Western Reconveyance Co. (“Cal-Western”) as trustee. (*See* Substitution, Sept. 28, 2010, ECF No. 1-1, at 41). First American then filed the notice of default (“NOD”) as Cal-Western’s agent based on a default of unspecified amount as of May 1, 2010. (*See* NOD 1–2, Sept. 29, 2010, ECF No. 1-1, at 38). MERS then transferred the beneficial interest in the note and DOT to Aurora Loan Services LLC (“Aurora”). (*See* Assignment, Oct. 4, 2010, ECF No. 1-1, at 43). In January 2011, Cal-Western noticed a trustee’s sale for September 21, 2011. (*See* Notice of Trustee’s Sale 1–2, Jan. 7, 2011, ECF No. 1-1, at 46).

Plaintiff filed the Complaint in state court on September 16, 2011 to stop the foreclosure,

1 suing MERS, Aurora, and Cal-Western on five causes of action: (1) fraud; (2) wrongful
2 foreclosure; (3) unjust enrichment; (4) violations of Nevada Revised Statutes section 107.080;
3 and (5) slander of title. Defendants removed. The state court had scheduled a preliminary
4 injunction hearing, but it is not clear if the state court had issued any temporary restraining order
5 (“TRO”), because Defendants attach only Plaintiff’s proposed TRO to the notice of removal. It
6 appears that motion is still pending, but Plaintiff has also filed a new motion. Because the
7 foreclosure appears to have been statutorily proper and Plaintiff does not appear to deny default,
8 Plaintiff has failed to show a likelihood of success on the merits, and the Court denies the motion
9 for a TRO.

10 **CONCLUSION**

11 IT IS HEREBY ORDERED that the Motion for Temporary Restraining Order (ECF No.
12 4) is DENIED.

13 IT IS SO ORDERED.

14 Dated this 19th day of October, 2011.

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17 ROBERT C. JONES
18 United States District Judge
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